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7 UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 "VICKY;" "JANE DOE" as next friend for
11 "SKYLAR" and "SAVANNAH," minors;
12 "JOHN DOE" as next friend for "SALLY"
13 and "SIERRA," minors; "JANE ROE" as
14 next friend for "PIA," "MYA," and "AVA,"
15 minors; "ALICE;" "SARAH;" "MAUREEN;"
16 "CASSEOPIA;" "AMY;" "JESSICA;" "JOHN
17 ROE" as next of friend for "JANE;" "JANE
18 SMITH" as next of friend for "ERIKA" and
19 "TORI;" "JENNY;" and "ANDY,"

20
21 Plaintiffs,

22 v.

23 James Graham Usherwood,

24 Defendant.
25

NO. C17-1604 RSL

STIPULATED MOTION AND
ORDER PURSUANT TO LCR 17(c)
FOR FINDING OF INDEPENDENT
REPRESENTATION OF MINORS,
AND FOR ORDER OF DISMISSAL

NOTE ON MOTION CALENDAR:

May 31, 2018

21 **I. STATEMENT OF RELIEF REQUESTED**

22 Coms now the Plaintiffs, Vicky, Skylar, Savannah, Sally, Sierra, Pia, Mya, Ava,
23 Alice, Sarah, Maureen, Casseopia, Amy, Jessica, Jane, Erika, Tori, Jenny, and Andy,
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25

STIPULATED MOTION AND ORDER FOR
AFFIRMATIVE FINDING PURSUANT TO
LCR 17(c) AND FOR ORDER OF
DISMISSAL - 1

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1 move this Court for an affirmative finding pursuant to LCR 17(c) that the plaintiff minors
2 herein have independent counsel, and for an Order of Dismissal.

3 II. FACTS

4 The plaintiffs and defendant have reached a tentative settlement providing for
5 payment of an equal amount to each of the plaintiffs herein. Nine of the nineteen
6 plaintiffs herein are minors. Of those nine, Sierra, Savannah, Skylar, and Sally have
7 court-appointed conservators in their home state. Their conservators have authority to
8 approve and have approved the proposed settlement herein. Minors Pia, Ava, and
9 Mya have independent counsel, Deborah A. Bianco of Bellevue, Washington. Minors
10 Jane and Tori have independent counsel James R. Marsh of White Plains, New York.
11

12 The parents/next friends of Pia, Ava, Mya, Jane, and Tori believe the proposed
13 settlement is in the best interests of the minors. Attorneys Bianco and Marsh are also
14 in agreement that the proposed settlement is in the best interests of their clients.
15

16 III. ISSUES

17 Whether the court should make an affirmative finding pursuant to LCR 17(c)
18 that the minors herein are either represented by independent counsel or have the
19 equivalent of a general guardian appointed.
20

21 Whether, if an affirmative finding of independent representation for the minors
22 herein is made, an order of dismissal should entered given the settlement reached by
23 the parties.
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IV. EVIDENCE RELIED UPON

Plaintiff relies on the Declaration of Carol L. Hepburn Plaintiffs' counsel herein; the Declaration of James R. Marsh, independent counsel for minors Jane and Tori; and the Declaration of Deborah A. Bianco, independent counsel for minors Pia, Ava and Mya.

V. ARGUMENT

LCR 17(c) provides that in cases involving minors that a guardian ad litem shall be appointed to investigate and report to the court concerning the propriety of any settlement,

. . . provided however, that the court may dispense with the appointment of the guardian ad litem if a general guardian has been previously appointed for such minor or incompetent, or if the court affirmatively finds that the minor or incompetent is represented by independent counsel.

In this instant case, four of the minors have the benefit of conservatorships pending in their home state. That state uses the nomenclature of conservatorship for a proceeding which serves the same purpose and has basically the same protections as the guardianship proceedings do in Washington State. Each of the minors Sierra, Savannah, Skylar, and Sally have had their parents appointed as co-conservators by a court in their home state with similar jurisdiction to that of the Washington State Superior Court. Prior to the filing of the complaint herein, that court specifically granted the Conservators authority to settle civil claims in amounts up to \$50,000.00.

1 Minors Pia, Ava, and Mya are independently represented by attorney Deborah
2 A. Bianco who represents their interests in civil and criminal matters related to their
3 being victims of child pornography crimes. Minors Jane and Tori are represented
4 independently by James R. Marsh who serves as their attorney in civil and criminal
5 matters related to their being victims of child pornography crimes.

6 Each of the minors herein has her interests protected in the manner
7 contemplated by LCR 17(c) by either an independent proceeding equivalent to a
8 general guardianship or through independent counsel.

9
10 The parties have effected a settlement which disposes of the claims of all
11 plaintiffs and desire that the matter be dismissed with prejudice.

12 **CONCLUSION**

13 The court should enter an order affirmatively finding that each of the minors
14 herein have benefit of independent counsel or an independent proceeding which is the
15 equivalent of a general guardianship. Upon making of this finding, the settlement
16 herein may be finalized and the matter dismissed with prejudice.

17
18 DATED this 31st day of May, 2018.

19 CAROL L. HEPBURN, P.S.

20
21 /s Carol L. Hepburn
22 Carol L. Hepburn, WSBA No. 8732
23 s/J. William Savage
24 J. William Savage, WSBA No. 32148
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3 Of attorneys for Plaintiff

4 THE MARSHALL DEFENSE FIRM

5 By s/David S. Marshall – approved via
6 email

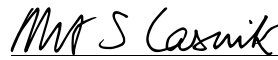
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11 (206) 826-1462 fax
12 Email: David@Marshalldefense.com
13 Of attorneys for Defendant

14 **ORDER**

15 Pursuant to LCR 17(c), the Court finds that minors Pia, Ava and Mya, Jane,
16 Erika and Tori have representation by independent legal counsel. Minors Sierra,
17 Savannah, Skylar and Sally have benefit of a court-ordered conservatorship in their
18 home state. These circumstances are sufficient for assurance of the appropriateness
19 of the settlement herein.

20 The Stipulated Motion is granted and this matter is dismissed with prejudice.

21 Dated this 20th day of June, 2018.

22 
23 Honorable Robert S. Lasnik
24 United States District Judge
25

STIPULATED MOTION AND ORDER FOR
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